1951 K **File No.** O. Societies Registration 51

Legal Dept

A **BRANCH**

Subject:— Opinions under the Societies Registration Act 1860

P17F

File No. O. Societies Registration 151

Gen. 184.

141-A

C O N T E N T S.

Legal Department File No. G. Societies Registration/51.

Sr. No.	R.I./G.No.	Subject	Pages.
		Societies Registration Act, 1860.	
	~~22246~~ ~~31-11-50~~ ~~781~~ ~~19-1-51~~	Sections 13, 14. Baroda (Application of Laws Order, 1949 + section 5(3) - Whether the funds could be distributed amongst the D.D.D.B. instead of the D.L.B.	1-4.
2.	~~11687~~ ~~25-7-51~~	Guru Shri Shantivijeiyaji Animals Hostipal Fund xxx Whether Govt. can take over the animal Hospital and buildings without payment of proper price thereof.	
3.	~~11426~~ ~~19-7-51~~	Whether Govt. can accept securities from the Governing body and vest them in the Treasurer of Charitable Endowments and take steps to settle a scheme for the administration of the trust.	7-8.
4.	~~730-Genrl~~ ~~26-7-51~~	Transition from the Committee of the Nursing Fund to the St. George's Nursing Association - who is the legal owner of the building - Private Nurses quarters and who is entitled to receive the purchase money.	9-12.
5.	~~12353~~ ~~20-8-51~~ 20-8-51	Private Nurses Quarters in St. George's Hospital - Whether the proof furnished by the Secretary of the St. George's Hospital Nursing Association is sufficient for the purpose of title to property.	13-20.
6.	~~18859~~ ~~26-9-51~~	What steps should be taken for revival of the Executive Committee of the Lt. Col. Adams Memorial Trust Fund. Whether the proposal of the Surgeon General that the Society should be dissolved and the Trust Fund taken over by Govt. is legall, feasible.	21-26.
7.	~~18905~~ ~~3-10-51~~	Whether Govt. can claim the funds from the Nasik Civil Association since it has decided not to dissolve itself but to continue to function after suitably amending or abridging its aims and objects.	27-28.

16134
11-10-32

Whether Govt. can claim the funds from the M.C.C. Hospital, Nursing Association, Mahabaleshwar, since it has decided not to dissolve itself but to continue to function.

29-30.

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Submitted.

Please see E.L.A.'s opinion No. 14285 dated 12-12-49 and No. 9106 dated 3-7-50. In accordance with these opinions F.D. has consented to the dissolution of the Committee appointed under Rule 6 of the Rules for the management of the Diamond-Jubilee People's Village Uplift Fund and has directed that the balance of the fund, ~~xxxxxxxxxxxxxxxxxx~~ should after meeting the liabilities of the fund, if any be distributed amongst the D.L.Bs. of territories of the former Baroda State for being utilised only for village uplift work. A.& F.D. has requested ~~xxx~~ E.L.A. to advise whether the funds could be distributed amongst the D.H. D.Bs. instead of the D.L.Bs. and if this is not possible whether Government can lay down that the D.L.Bs. shall spend the fund on works approved by the D.R.D.Bs concerned.

Office of the R.L.A.

Disbursement of balance of amount on dissolution of Society, Societies Registration Act, 1860. Sections 13, 14. Baroda (Application of Laws) Order, 1949- section 5(3).

The fund is made up of private collections for village uplift work. The Diamond Jubilee People's Village Uplift Fund Committee had passed a resolution by obtaining written consent of its members that the balance of this fund would be distributed amongst the District Local Boards of the State for village uplift work. This resolution will remain in effect under para 5(3) of the Baroda (Application of Laws) Order, 1949 and it will have to be implemented by giving the money to the Boards (see R.L.A.'s opinion No. 9106 dated 3-7-50). It would not therefore possible for the Government while giving its consent to direct that the funds should be distributed amongst the ~~Districtsxx~~ Rural Development Boards. There is however no objection to Government informing the District Local Boards that the amount handed over to them may be spent on works approved by the District Rural Development Boards although this would not be binding on them. The Finance Department file No. 7867/33 is taken by the Finance Department for the disposal of another case.

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Remembrancer of Legal Affairs

U.O. to A.& F.D., No. 751; dated the 12th January, 1951.

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By the lease dated the 7th November, 1935, the Secretary of State for India-in-Council granted a lease of land to the Society for the control of Guru Shri Shantivijayaji Animals Hospital Fund, for the purpose of erecting an animal hospital with attached quarters for staff, dispensaries, stable, outhouses etc. One of the conditions of the lease provides for the right of the lessor to purchase the hospital and buildings on receipt of notice of termination of lease from the lessee. If the Society terminates the lease it would be quite competent for the Bombay State to purchase the hospital and buildings of the Society. If this right is enforced by Government, proper price for the hospital and buildings will have to be paid to the Society. It appears that the Society is a registered Society under the Societies Registration Act, 1860, and the Society has decided to dissolve itself after negotiating with Government for the transfer of the hospital to Government as provided in the lease. Under section 14 of the Societies Registration Act, 1860, as amended by Bom. Act II of 1912, it would be lawful for the members of any Society to resolve under section 13 to determine by a majority of votes of the members present personally or by proxy at the time of dissolution of such society that any property whatsoever remaining after the satisfaction of all its debts and liabilities shall be given to Government to be utilized for any of the purposes referred to in section 1 of the Act. If Government wants to take over the institution as proposed by the Director of Animal Husbandry & Veterinary Science without payment of proper price thereof, the only feasible course is to induce the Committee to resolve as provided in section 14 and to hand over the institution to Government for management.

Sd./-
Additional Secretary to Government.

U.R. to A. & F.D., No. 11627; dated the 23rd July, 1951.

SVV
27.6.56.
4 c.

Legal Department.

Since the assets of the Society are to be utilised for the purposes referred to in section 1 of the Societies Registration Act, 1860, Government may accept the securities from the Governing body and vest them in the Treasurer of Charitable Endowments and take steps to settle a scheme for the administration of the trust. The Governing body should be asked to transfer the securities in the name of the Governor of Bombay.

Sd./-
Additional Secretary to Government.

U.R. to L.& J.D., No. 11438; dated the 19th July, 1951.

SVV
27.6.56.
4 c.

Office of the R.L.A.

G.R. (M.D.) No. 1783, dated the 26th April 1899 and No. 2816 dated the 4th July 1899 show that the building known as the Private Nurses Quarters standing in a site in the compound of St. George's Hospital was erected on a site granted by Government in 1899. The grant was made to a body known as the Committee of St. George's Hospital Nursing Fund. The papers forwarded by L.S.G. & P.H.D. including the papers underlying the Government Resolutions of 1899 do not show what the legal status of the Committee and how the fund was constituted. But it is clear from the contents of the said Resolutions that the Fund did not vest in Government nor was its property. This is clear from the fact that Government reserved to itself the option of taking over the structure on payment of the price to the Committee of the Fund. The St. George's Nursing Association is a society registered under the Societies Registration Act, 1860. It came into existence in 1902. Paragraph 2(b) of its Memorandum of Association provides that one of its objects was to take over the buildings known as the Private Nursing Quarters and other funds. It is probable that the Committee of the Nursing Fund which was in existence was an informal body and in 1902 steps were taken to convert it into a society registered under the Act of 1860 to give it a legal status. The Association itself is in charge of the various funds and is also managing the building in question. The Association ~~[illegible]~~ ought to be able to prove from its records how the transition took place from the Committee of the Nursing Fund to the present Association. There may not be an actual deed of conveyance. But the Association ought to be able to produce a resolution of the Committee dissolving itself .....

itself and handing over its property to the Association and Association itself taking over such property. The mere fact that the Association has been managing the property would not by itself be sufficient to prove that it is the legal owner of the building and is entitled to receive the purchase money. If the Association is unable to produce such proof to the satisfaction of Government, the proper procedure in the present case would be that the Association should agree to state a special case under Order XXXVI of Civil Procedure Code for the opinion of the Court and if the Court decides that it is entitled to receive the purchase money for the quarters, the amount may be paid to it.

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Remembrancer of Legal Affairs.

Secy., L.S.G. & P.H.D.

Please see R.L.A.'s opinion No. 13333 dt. 20/6/51.

SVV
27.6.56.
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Office of the R.L.A.

Private Nurses Quarters in St. Geroge's Hospital.

Title to property.

As advised by the R.L.A in his 1st Opinion at pages 351-353 the Honorary Secretary of the St. Georges Hospital Nursing Association has forwarded to Government certain extracts from the Minute book of St. Georges Hospital Nursing Fund Committee to prove the title of the St. Georges Hospital Nursing Association to the property. The R.L.A. is now requested to advise whether the proof furnished by the Secretary of the St. Georges Hospital Nursing Association is sufficient for the purpose.

2. It appears from the letter of the Honorary Secretary and Treasurer, St. Georges Hospital Nursing Fund, dated 10th March, 1902, that the Mother-Superior of All Saints Sisterhood had notified the resignation of the Sisters in connection with the nursing at St. Georges Hospital. On 7th April 1902 a meeting of the St. Georges Hospital Nursing Fund Committee was called to consider what steps should be taken in respect of the decision of the Sisters to resign the management of the nursing staff attached to the St. Georges Hospital. The Committee resolved that "it is not desirable, if not indispensable, to continue the present system of a combined Hospital and private nursing staff" and they proposed with the approval of Government to call a meeting of the subscribers with a view to re-constitute this committee for the purpose of carrying on the management of the joint institutions under a paid Lady Superintendent and staff. Accordingly, the Honorary Secretary of the Fund addressed a letter to the Secretary to Government, General Department. By Government Resolution, General Department No. 2488 dated the 1st May, 1902, Government having regretted the decision

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of the ladies of All Saints Sisterhood decided that Government would be glad if the Gentlemen of the Committee who had hitherto administered the Nursing Fund on behalf of the Sisterhood would favour Government with their opinion as to the arrangements that should be made for the future management of the Nursing subject to the understanding that the control of the nursing within the Hospital would in future be in the hands of the Hospital authorities and Government was inclined to think that as little change as possible should be made in the existing arrangement; and, in the event of a re-constitution of the Nursing Fund on the lines laid down by Government resoultxion No.761 of 7th February last, Government would be glad if the Committee would favour Government with their views as to the form in which the accounts of the Fund should be kept. The Nursing Fund Committee was accordingly informed of Government's decision. It appears from the extracts of the minutes of the meeting of the Committee held on 12th May, 1902 that the Hon'ble Mr. Hughes submitted to the Committee the lines of a Scheme for the re-constitution of the Nursing Fund on the basis of which, he thought, the work of the Fund might be carried on agreeably with the terms suggested by Government. And the Committee resolved that the principles of Hon'ble Mr. Hughes' Scheme should be adopted and the whole matter should be referred to a Committee consisting of the Hon'ble Mr. Hughes etc., who were asked to draw up the scheme in detail and in complete form and to submit the same to a meeting of the Committee to be called at an early date and in the event of the Fund being re-constituted in the manner proposed its name should be changed from the 'St. Georges Hospital Nursing Fund', to the 'St. Georges Hospital Nursing Association.' The Committee again met on 2nd June 1902 and considered the scheme proposed by the Sub-committee appointed at the meeting held .....

held on 12th May, 1902 for the reconstitution of the Fund on the lines laid down by Government in G.R., G.D. No. 761 dated the 7th February, 1902, and resolved that the scheme as amended should be approved and forwarded for the consideration of Government in compliance with the instructions conveyed in their letter No. 2449 dated the 1st May, 1902. On 28th June, 1902 Government approved generally of the Scheme submitted by the Committee of St. Georges Hospital Nursing Fund for the future management of the Fund and suggested some verbal changes (See G.R. No. 3575 dated the 28th June, 1902). The Committee met on the 7th July, 1902 and resolved that "The Committee having agreed to the conditions laid down by Government relating to P.N. Quarters and having accepted the suggested alterations in respect of the phrase in question in the memorandum of Association proceeded to sign the application for the registration of the St. Georges Hospital Nursing Association and they decided that a paragraph should be sent to the Press notifying the fact of registration with the approval of Government and further that a copy of the Memorandum and the Rules and Regulations of the Association should be sent to the editors of the three local papers." One of the objects of the Association as staged in the Memorandum of Association of the St. Georges Hospital Nursing Association registered under Act XXI of 1860 is to take over the building of St. Georges Hospital and the furniture and fittings belonging thereto and the Provident and Middleton Memorial Funds and all other property and liabilities of St. Georges Hospital Nursing Fund with power to maintain alter or enlarge the P.N. Quarters or otherwise improve and increase the accommodation of the Nurses, pupil nurses and probationers and to borrow or secure the payment of loans in such manner as the Association may think fit."

5. It is clear from the various extracts and Government resolutions and the Memorandum of Association

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that the property of St. Georges Hospital Nursing and Fund Committee was taken over by the St. Georges Hospital Nursing Association with the approval of Government. Consequently the title of the St. Georges Hospital Nursing Association to the property in question can be deemed to have been established. There would, therefore, be no longer legal objection to Government paying the purchase money in respect of the purchase of Private Nurses Quarters to the St. Georges Hospital Nursing Association.

Sd./-
18/8
Remembrancer of Legal Affairs.

U.R. to L.S.O. & P.H.D., No. 15333 ; dated the 20th August, 1951.

SVV
27.6.56.
4 c.

Legal Department.

The following questions are raised for the H.L.S.'s consideration :-

(1) What steps should be taken for revival of the Executive Committee of the Lt. Col. Adams Memorial Trust Fund?

(2) Whether the proposal of the Surgeon-General, that the Society should be dissolved and the Trust Fund taken over by Government is legally feasible?

2. It appears that the Adams Memorial Hospital was started in the year 1905 from public subscriptions and assisted by Government grant to commemorate the long and valuable service in Rajputana of the Late Lt. Col. Adams, I.M.S., who died of Cholera in 1900. In 1924 Government of India approved of the utilisation of the balance of Rs. 63,800/- of the Fund known as "Sub Assistant Surgeons Reserve Fund" towards improvement of this Hospital and this sum was invested in Government securities. In addition to these there were also other amounts totalling Rs. 18,729/- at the credit of the hospital and invested partly in Government securities and partly in Post Office Savings Bank. For the proper management of these investments a Society for the control of Adams Memorial Hospital Trust Fund was formed and registered under the Registration of the Societies Act, 1860. Under the Rules of the Society a Committee for the management of the affairs of the Society was constituted consisting of (1) Hon'ble Mr. L.W. Reynolds, A. G.G. in Rajputana (2) Lt. Col. G.M.Miller, C.M.G., Rajputana-Ajmer, and (3) Captain D.B. Smith, District Magistrate, Mount Abu. Officers of the Society were the President, Secretary and the Treasurer, and the funds of the Society vested in the President and the Secretary of the Society. Under rule 3, the affairs

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of the Society are to be managed by an Executive Committee which shall consist of the President, Secretary, and Treasurer, and District Magistrate, Abu. Under Rule 4 the Secretary of the Society is given power to convene the meetings of the Society and to keep the minutes of these meetings. Under Rule 6 the Hon'ble A.G.G. Rajputana was required to preside at every General meeting of the Society and in his absence the members could choose one of them to be the chairman of the meeting and three members could form a quorum.

3. On the retrocession of Abu to Sirohi, the Hospital was handed to the Sirohi State, but the Trust Fund of Rs. 90,000/- is continued to be managed by the Society. The Chief Minister of Sirohi State became the President of the Society and on the integration of that State, the Administrator of Sirohi State becams the President of the Society. At the last meeting of the Trust Fund held on 24-12-1949, the Administrator, Sirohi State was President and the Chief Medical Officer, Secretary, and the four other members from the public of Abu were present. It appears from the Chief Medical Officer's report at p. 21 ante, that some Committee is functioning. It is clear from these facts that with the retrocession of Abu to Sirohi and with the integration and subsequent merger of that State with the Bombay State, the Committee of management of the Trust Fund of the Adams Memorial Trust Fund required to be overhauled. According to the Rules of the Adams Memorial Trust Fund, the Secretary is given the power to convene the meeting. He should, therefore, call a meeting & get new rules sanctioned at the meeting for the purpose of administration of the Trust Fund. These rules should provide for the appointment of a new Managing Committee, Secretary and Treasurer so that

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the Committee with the necessary powers vested in it under the Rules should begin to function.

Under section 14 of the Societies Registration Act as amended by Bom. II of 1912 it shall be law-ful for the members of any society dissolved under section 13 of the said Act to determine by a majority of the votes of members present personally or by proxy at the time of the dissolution of such society that anyproperty whatsoever remaining after the satisfaction of all debts and liabilities shall be given to Government to be utilised for any of the purposes referred to in section 1 of the said Act. If it is desired that the Society should be dissolved and that anyy property whatsoever remaining after satisfaction of all debts and liabilities should be given to Government to be utilized for the purposes for which the society was registered.

Sd./-
Additional Secretary to Government.

U.P. to L.S.G. & P.H.D., No. 15389; dated the 28th September, 1951.

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27.6.56.
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Legal Department.

At its meeting held on the 4th June, 1949, the General Body of the Nasik Civil Association resolved that "the Association should continue to exist under the modified constitution and revised aims and objects. The funds and securities of the Association should remain in the hands of the Association independently of Government control." It also resolved that General Body should arrange to revise the aims and objects and should form rules and regulations to conduct the business of Association. In the revised Memorandum of Association, the Association is proposed to be named as "The Nasik District Health and Medical Association." It is thus clear that the said Association has not decided to dissolve itself but has decided to continue to exist and with that object in view, it revised its memorandum of Association. Since the said Association is not to be dissolved but it wishes to continue to function after suitably amending or abridging its aims and objects, and since it has already decided that the funds and securities should remain with the Association for being utilised for the revised objects and not to transfer the same to Government, Government cannot claim the funds (See Solicitor's Opinion No. 12568 dated the 6th August, 1951.).

Sd./-
Additional Secretary to Government

U.R. to I.S.G. (P.H.D., No. 15905; dated the 6th October, 1951.

BVV
27.6.56.
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Legal Department.

From the letter of the Medical Officer-in-charge of M. G. G. Hospital, Mahableshwar, it appears that the M. G. G. Hospital Nursing Association Mahableshwar, was started in 1925 by a local body which collected funds locally from donations, and Government grants given for meeting ~~and~~ the recurring expenditure. It is not clear whether it is an Association registered under the Societies Registration Act, 1860. Though the Nursing staff is transferred to Government the said Association, at its meeting holds on 3rd March, 1949 resolved that the fund should be devoted for the original object of utilising it "in furthering the objects of the maternity and child welfare" by training Dais. Rules have been amended to carry out the said oubject. Since the said Association has not decided to dissolve itself but has decided to continue to function and with that object has revised its rules and has decided to utilise the fund and securities in its possession for the said revised objects, and not to transfer the fund to Government, Government cannot claim the fund (See R.L.A.'s No. 15905, dated the 6-10-51).

Sd./-
Additional Secretary to Government.

U.R. to I.S.G. & P.H.D., No. 16134, dated the 11th October, 1951.

SVV
27.6.56.
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